REMARKS

By this amendment, claims 1-11 have been amended. Some of the claims have been amended for clarification. New claims 12-15 have been added to provide for a more complete claim set. Claims 1-15 remain in the application. Support for the amendments can be found the specification and drawings. No new matter has been added. This application has been carefully considered in connection with the Examiner's Action. Reconsideration and allowance of the application, as amended, is respectfully requested.

The Specification

The office action indicates that the specification fails to provide titles to corresponding sections within the written disclosure. Applicant respectfully declines to add the headings, as they are not required in accordance with MPEP §608.01(a).

Rejection under 35 U.S.C. §101

Claim 11 was rejected to under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. As presented herein, claim 11 has been amended to refer more clearly to a computer-readable medium encoded with a computer program configured to be executed by a computer arrangement, comprising processing means and a memory, etc., and thus now renders the same as being directed to statutory subject matter. Furthermore, claim 11 has been amended to include "causing a display to display the output image" as suggested by the Examiner. Support for the amendment to claim 11 can be found in the specification at least on page 1, lines 5-7; page 8, lines 30-33 and page 11, line 11. The 35 U.S.C. §101 rejection of claim 11 is now believed overcome. Withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §112

Claims 1-11 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As presented herein, claims 1, 10 and 11 have been amended to clarify the limitation of the "second signal (P) representing positional information of a viewer, as a function of time, relative to a display apparatus. The "viewer" corresponds to an observer of the output image displayed on the display apparatus. In addition, positional information of a viewer relative to the display apparatus can change over time (i.e., as a function of time). Support for the amendment to claims 1, 10 and 11 can be found in the specification at least on page 6, lines 17-26, page 8, lines 19-27; and FIGs. 1 and 3. The 35 U.S.C. §112 rejection of claims 1, 10 and 11 is now believed overcome. The 35 U.S.C. §112 rejection of claims 2-9 which depend from claim 1 is now also believed overcome. Withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §103

CLAIM 1

Claim 1 recites a display apparatus for displaying an output image on a basis of 3D visual information, the display apparatus comprising:

- first receiving means for receiving a first signal (3DV) representing the 3D visual information;
- second receiving means for receiving a second signal (P), the second signal (P) representing positional information of a viewer, as function of time, relative to the display apparatus;
- filtering means for high-pass filtering the second signal (P), resulting in a third signal (PF);
- rendering means for rendering the output image on a basis of the first signal (3DV) and the third signal (PF), wherein the third signal (PF) produced by

high-pass filtering the second signal (P) provides a relation between (a)(i) a change of actual positional information per unit time and (a)(ii) the output of the rendering means such that (b)(i) for a change of actual positional information during a particular amount of time being zero, the output of the filtering means is zero and the rendering means renders a default image and (b)(ii) for a change of actual positional information during a particular amount of time being large, the output of the filtering means is high and the rendering means renders a sequence of output images corresponding to large angles related to the default image; and

- display means for displaying the output image.

Support for the amendments to claim 1 (as well as for amendments to claims 10 and 11) can be found in the specification on at least page 3, lines 9-28, as originally filed.

Claims 1-4 and 9-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Van Geest et al. (US 2003/0035001 A1, hereafter **Van Geest**) in view of Travers et al (US 5,373,857, hereafter **Travers**). With respect to claim 1, Applicant respectfully traverses this rejection on the grounds that these references are defective in establishing a prima facie case of obviousness.

As the PTO recognizes in MPEP § 2142:

> *... The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness ...*

It is submitted that, in the present case, the examiner has not factually supported a prima facie case of obviousness for at least the following reasons.

1. Even When Combined, the References Do Not Teach the Claimed Subject Matter

The **Van Geest** and **Travers** references cannot be applied to reject claim 1 under 35 U.S.C. § 103 which provides that:

> *A patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains* ... (Emphasis added)

Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated. However, since neither **Van Geest** nor **Travers** teaches a display apparatus includes rendering an output image on a basis of the first signal (3DV) and a third signal (PF) "wherein the *third signal* (PF) produced by high-pass filtering the second signal (P) *provides a relation* between (a)(i) a *change* of *actual positional information per unit time* and (a)(ii) the output of the rendering means such that (b)(i) for a change of actual positional information during a particular amount of time being *zero*, the output of the filtering means is zero and the rendering means renders a *default image* and (b)(ii) for a change of actual positional information during a particular amount of time being *large*, the output of the filtering means is high and the rendering means renders a *sequence of output images* corresponding to large *angles* related to the *default image*" (emphasis added) as is claimed in claim 1, it is impossible to render the subject matter of claim 1 as a whole obvious, and the explicit terms of the statute cannot be met.

2. The Combination of References is Improper

Assuming, arguendo, that the above argument for non-obviousness does not apply (which is clearly not the case based on the above), there is still another compelling reason why the **Van Geest** and **Travers** references cannot be applied to reject claim 1 under 35 U.S.C. §103.

§ 2142 of the MPEP also provides:

> *...the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made ... . The examiner must put aside knowledge of the applicant's disclosure, refrain from using hindsight, and consider the subject matter claimed 'as a whole'.*

Here, neither **Van Geest** nor **Travers** teaches, or even suggests, the desirability of the combination since no one of the references teach the specific rendering of an output image on a basis of the first signal (3DV) and a third signal (PF) "wherein the *third signal* (PF) produced by high-pass filtering the second signal (P) *provides a relation* between (a)(i) a *change* of *actual positional information per unit time* and (a)(ii) the output of the rendering means such that (b)(i) for a change of actual positional information during a particular amount of time being *zero*, the output of the filtering means is zero and the rendering means renders a *default image* and (b)(ii) for a change of actual positional information during a particular amount of time being *large*, the output of the filtering means is high and the rendering means renders a *sequence of output images* corresponding to large *angles* related to the *default image*" as specified above and as claimed in claim 1.

Thus, it is clear that none of the references provides any incentive or motivation supporting the desirability of the combination. Therefore, there is simply no basis in the art for combining the references to support a 35 U.S.C. §103 rejection.

In this context, the MPEP further provides at § 2143.01:

> *The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.*

In the above context, the courts have repeatedly held that obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination.

In the present case it is clear that the combination presented in the Office Action

arises solely from hindsight based on the invention without any showing, suggestion, incentive or motivation in either reference for the combination as applied to claim 1. Therefore, for this reason, the examiner's burden of factually supporting a *prima facie* case of obviousness has clearly not been met, and the rejection under 35 U.S.C. §103 should be withdrawn.

Accordingly, claim 1 is allowable and an early formal notice thereof is requested. Claim 2-5 and 9 depend from and further limit independent claim 1 and therefore are allowable as well. Accordingly, the 35 U.S.C. §103(a) rejection thereof has now been overcome.

With respect to claim 10, the same has been amended herein in a similar manner as with respect to the amendment to claim 1. Claim 10 is believed allowable over the **Van Geest** and **Travers** references for the reasons stated herein above with respect to overcoming the rejection of claim 1. Accordingly, claim 10 is allowable and an early formal notice thereof is requested. Withdrawal of the 35 U.S.C. §103(1) rejection is requested.

With respect to claim 11, the same has been amended herein in a similar manner as with respect to the amendment to claim 1. Claim 11 is believed allowable over the **Van Geest** and **Travers** references for the reasons stated herein above with respect to overcoming the rejection of claim 1. Accordingly, claim 11 is allowable and an early formal notice thereof is requested. Withdrawal of the 35 U.S.C. §103(1) rejection is requested.

New Claims

New claims 12-15 have been added to provide for more complete claim coverage. Support for new claims 12-15 can be found in the specification on at least page 9, lines 19-30; page 12, lines 25-27; page 13, lines 1-20; and FIG. 3 as originally

filed, Claims 12-15 depend from and further limit, in a patentable sense, allowable independent claim 1, via claim 4. Claims 12-15 are therefore allowable as well.

Conclusion

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application.

It is clear from all of the foregoing that independent claims 1, 10 and 11 are in condition for allowance. Claims 2-9 and 12-15 depend from and further limit independent claim 1 and therefore are allowable as well.

The amendments herein are fully supported by the original specification and drawings; therefore, no new matter is introduced. An early formal notice of allowance of claims 1-15 is requested.

Respectfully submitted,

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